

FARMINGTON CITY – CITY COUNCIL MINUTES

NOVEMBER 12, 2019

WORK SESSION

Present: Mayor Jim Talbot; City Manager Shane Pace; City Councilmembers Alex Leeman and Rebecca Wayment; City Recorder Holly Gadd; Community Development Director Dave Petersen; Economic Development Director Brigham Mellor; Fire Chief Guido Smith; and Recording Secretary Deanne Chaston.

FRODSHAM COMMUNITY CHRISTMAS

Barbara Frodsham and **Scott Ellenson** attended the work session seeking funding from the City. Frodsham Community Christmas Co-chairman **Scott Ellenson** has been part of the event for 11 years. This year's event will be held Dec. 21, 2019. Two years ago they rented the three smaller buildings at the Legacy Events Center. The event takes three rented buses per year to transport attendees from shelters and Title I schools. Last year the event cost \$6,000, including some one-time investments. **Ellenson** said the cost to benefit ratio is massive. He pointed those wanting to help or volunteer to their website. They have partnered with a 501(c)(3) to accept donations.

Frodsham, one of the founders of this event, said they helped 37 people the first year. Last year, 27 years later, they helped 937. They have had horses for the children to ride, a horse-drawn carriage, bonfires, roasted marshmallows, Santa, and other entertainment. Participants get a warm meal, a wrapped present, bilingual hosts during the event, clothing, and a chance to pick items from a pantry area with diapers, formula, and toiletries. She appreciates those who have helped over the years with food, clothes, gift donations, and wrapping presents.

Mayor **Jim Talbot** asked **Ellenson** to contact City Recorder **Holly Gadd** the next day to get contact information from a representative with the local Mercedes Benz dealership, as they may be interested in helping fund this community event. Mayor **Talbot** said he and City Manager **Shane Pace** will set up a meeting with **Bob Stevenson, Randy Elliott or Lorene Kamalu**, Davis County Commissioners, to ask if they can waive Frodsham's venue rental costs, as it will be easier for the City to donate directly to the County to help cover the venue rental. **Ellenson** said the final \$1,000 lease payment for the venue is due Dec. 21, 2019, the day of the event. He has already paid \$350 to reserve the venue. Mayor **Talbot** asked if customers of the Frodsham yard care business could contribute to the cause on their bill, but **Frodsham** said that company is no longer associated with her family. He said the City will consider contributing to the Frodsham Community Christmas in the future. Councilman **Alex Leeman** encouraged **Frodsham** and **Ellenson** to keep the event going. Councilwoman **Rebecca Wayment** said she was interested in volunteering.

BRENTWOOD ESTATES

Community Development Director **Dave Petersen** followed up on the Brentwood Estates agenda item during the work session. He said he had spoken one-on-one with **Robert Reynolds**, a

concerned citizen who lives in the Brentwood Estates subdivision at 401 Welling Way, just below the parcel in question. **Petersen** said **Reynolds** is the resident most affected by this item, and he wants the home to be built further to the south with a flat roof so as not to obstruct his views or affect his privacy. The area to the south is the most buildable portion of that parcel. Mayor **Talbot** asked **Petersen** if the Council could ask for height restrictions on the future home. **Petersen** said he would check into it. The parcel's owner, **Steve Welling**, and the developer, **Symphony Homes**, met with **Reynolds** since the last City Council meeting.

Petersen said that tonight's staff report will be the same as the staff report from the last City Council meeting. He said that from the City Staff standpoint, the applicant is right in asking for a plat amendment, since the City asked them in the past to leave it unplatted. Since it was identified as a parcel, it is now a place holder that triggers the property owner to go to the effort of getting it approved as a building lot. **Petersen** said city staff instructed the applicant to do it this way in the past for the City's benefit, as well as for the applicant's benefit. **Petersen** said there are two easements on that property, as the parcel was initially intended for two building lots. As the yield plan, schematic and preliminary plat for Brentwood Estates did not include this parcel, it was not used to calculate open space at all. **Pace** said that the parcel is large enough that a rambler could be built there without requiring retaining walls.

Councilman **Leeman** said he had spoken with Reynolds since the last City Council meeting. He said he is looking forward to hearing from the property owner and developer during the regular session, and he is hoping to hear a definitive reason for why the Council should amend the plat. Based on what he heard at the last City Council meeting, **Leeman** said he is leaning toward voting against it, but the burden is now on the property owner to present a good reason for amending the plat. He said in the research he has done, that statute doesn't define "good cause."

Mayor **Talbot** said it appeared that Councilman **Brett Anderson** was on the same page as Councilman **Leeman**. Councilwoman **Wayment** said she had had a lot of Brentwood neighbors call and talk to her about this item, saying that many of them had bought their lots under the impression that developer Ivory Homes was going to keep the parcel as open space. **Pace** said Council members should not let Ivory's actions determine their vote, and that approval of a building lot on that parcel could lead to a lawsuit of Ivory Homes.

Petersen asked if it would make a difference to the Councilmembers if the parcel was a free standing lot or if it was connected to the Overlook Subdivision across the street. **Leeman** said that the surrounding neighbors vigorously oppose amending the parcel, and that it made no difference if it was connected to the subdivision across the street or not. He also noted that Ivory Homes actually owned the parcel at the time Ivory Homes made the statements to potential buyers that the parcel would remain as open space, which gives him less heartburn over Ivory's statements. **Leeman** said the parcel was conveyed from **Steve Welling** to Ivory in 2013, and then from Ivory back to **Welling** in December of 2018. **Petersen** said that **Welling** was surprised before December of 2018 that the title was in Ivory's name, and that within an eight-hour work day, Ivory removed itself from the title.

Petersen asked if the City could get sued for directing the applicant to keep the parcel unplatted in the past, only to deny the plat amendment now. Mayor **Talbot** said that the City must be protected, but it may be a good idea to table the item since a full Council will not be present during the regular session. He said it may be worth having the full council as well as the City Attorney weigh in on this issue before a vote is taken. **Leeman** said this has been an unexpectedly tough agenda item for him since the standard of “good cause” is not well defined or articulated; he feels good cause must be demonstrated from the standpoint of the surrounding lot owners; and that it would be easy to establish “good cause” for the city as the lot, if the plat amendment were granted, would be improved with sidewalk, curb and gutter.

REGULAR SESSION

Present: Mayor Jim Talbot; City Manager Shane Pace; City Councilmembers Alex Leeman and Rebecca Wayment; City Recorder Holly Gadd; Community Development Director Dave Petersen; Economic Development Director Brigham Mellor; Farmington City Parks and Recreation Director Neil Miller; Fire Chief Guido Smith; and Recording Secretary Deanne Chaston. City Councilman Cory Ritz attended the meeting telephonically.

CALL TO ORDER:

Mayor **Jim Talbot** called the meeting to order at 7:00 p.m.

Roll Call (Opening Comments/Invocation/Pledge of Allegiance)

Wayment offered the invocation, and the Pledge of Allegiance was led by **Shane Pace**.

Mayor **Talbot** acknowledged the Farmington Youth City Council Members attending the meeting for their help with Easter Egg Hunt, Festival Days, and other service throughout the community. The members including Logan Perez, Sterling Freebairn, Spencer Shumway, and Anna Godfrey introduced themselves.

PRESENTATIONS:

Presentation of Check to Elora’s Lights from Charity Bike Race. Motorcycle Race Chairman **Todd Blanch** and Farmington City Parks and Recreation Director **Neil Miller** presented a \$3,600 check to **Ryan and Brindee Horsley** and organizer **Julie Miller** for the Elora’s Lights Foundation. Recognition was also given to contributions from Smith’s and Burt’s Brothers. Blanch said that in the past, his organization has contributed to the Huntsman Cancer Institute, but they wanted to give to a cause closer to home. **Ryan Horsley** said his family started the foundation two years after their young daughter passed away from a brain tumor. The main purpose of the foundation is to help fund pediatric cancer research. Mayor **Talbot** said that the work the foundation puts in at Heritage Park makes it look better than Disneyland. **Horsley** invited the Council to attend their community night on November 25.

Presentation to Gordon Crabtree of the University of Utah

In recognition of the University of Utah’s sizable contributions to the City, Mayor **Talbot** presented **Gordon Crabtree** with a piece of artwork by **Rebecca Mann**. He said Crabtree’s

contributions have led to beautiful, unique horse artwork that will be installed at the roundabout. A 16-year resident of Farmington, **Crabtree** also was instrumental in funding a pickle ball court at a local regional park.

PUBLIC HEARINGS:

Councilman **Cory Ritz** joined the meeting via telephone.

Resolution Amending the Municipal Budget for Fiscal Year 2020

Pace said the General Fund had increased by \$50,000 due to a State of Utah grant for trails, which will be put toward trail construction in the business park area. Economic Development Director **Brigham Mellor** said the plan is to move forward with Shepherd Creek Trail, along the south of the creek and near the Red Barn and Arbinger Building, connecting to the park. **Mellor** said the City is working through legal issues regarding a Bureau of Reclamation easement on the Legacy Parkway and Rail Trail.

Additionally, \$310,000 was pulled from the fund balance for expenditures toward purchase of property next to the Forbush Park. Mayor **Talbot** said it was a miracle that the City was able to acquire this half-acre of property, as the City had been trying to purchase it for years. Now, the City will be able to expand the park's north side.

Mayor **Talbot** opened the Public Hearing. Nobody signed up to address the Council on the issue. Mayor **Talbot** closed the Public Hearing.

Motion:

Leeman moved to approve the resolution, which amends the budget for Fiscal Year 2020.

Wayment seconded the motion, which received a unanimous vote.

Amendment to Chapter 8 of the Zoning Ordinance Regarding Administrative Review for Public Street Standards Not Listed

Petersen said that **Pace** recommended that decisions such as horizontal cross sections of public streets, park strip width adjustments to adjust for telephone poles, and sidewalk locations be left in the hands of the city engineer. However, the City Council should still decide whether to eliminate sidewalks or not. **Pace** said it is unfair to the Council to have them make decisions that involve actual engineer estimates and engineering principles that would be better made by the engineer out in the field. The elected body, or the Council, should make policy decisions.

Mayor **Talbot** opened the Public Hearing. Nobody signed up to address the Council on the issue. **Talbot** closed the Public Hearing.

Motion:

Wayment moved to adopt the ordinance amending Section 12-8-100 of Chapter 8 of the Zoning Ordinance regarding Administrative Review and Public Street Standards not Listed including Findings for Approval A and B.

Seconded by **Leeman** with a unanimous vote.

Amendment to Chapter 3 of the Zoning Ordinance regarding Special Exceptions and Moderate Income Housing

Petersen said this involves the **John Saltzgiver** property on the northeast corner of Kambouris Lane (1470 South) and 200 East (State Route 106), which was vacant of a single-family dwelling but had a garage for a number of years. The City Council agreed to change the zone to S-2, which would allow a two-family dwelling that would only be in effect after the City explored the possibility of providing one of the units as qualification for moderate income housing. This was done with the knowledge that SB34 had been adopted, and may be a good way to experiment with a prototype. This would require an agreement that is normally done through greater detail in Chapter 28 Supplemental Regulations. **Petersen** would like to start out slow and by special exception by the Planning Commission so they have a chance to review it, while also at the sole discretion of the City Council. This would allow the City to draft an agreement for **Saltzgiver** to consider. After this experience, the City might or might not have another section elsewhere in the code. This is to consider additional dwelling unit to provide housing for moderate income households subject to written agreement by the City at the sole discretion of the City Council. **Petersen** said that both the Planning Commission and City Staff recommends this amendment.

Mayor **Talbot** opened the Public Hearing. No one signed up to address the council on this issue. **Talbot** closed the Public Hearing.

Wayment said she would prefer if the City Council had policies and parameters to guide them when considering special exceptions and moderate income housing. **Petersen** said he would like to, but he is not sure exactly what type of parameters the City wants. This got started by considering Transfer Development Rights (TDR) for open space, and asking for TDR for moderate income housing, which is a notable public purpose. However, it would not apply for open space to be traded from onsite to a regional park. **Petersen** asked the City Attorney if the City council has the authority to grant extra density anywhere in the city for something like moderate income housing. The City Attorney said no, unless done by agreement. The City's current accessory development unit ordinance is a paragraph long and has been existing since 2003, with two or three guidelines for a detached unit in a property owner's yard. The City has only had six or seven applicants for this in the last 15 years. Meanwhile, other cities such as Salt Lake City have participated in a codification overhaul, attempting to think of every parameter and adopting pages of Accessory Development Unit (ADU) ordinance parameters that are difficult to administer. The Salt Lake City Council was worried they would be overrun with ADU applications, but only got one in the first four years in a city with 190,000. **Petersen** said Farmington would like to start out simply with this agenda item acting as the first prototype, while paying attention to anything that could arise while exploring an agreement process.

Motion:

Leeman moved to approve the proposed amendment to the Special Exceptions section of Code 11-3-045 as set forth in the staff packet with an additional change in part 5 indicated in the redline version. He proposed that instead of the period at end of part 5, a comma would be placed and include the verbiage "following the same standard for approval that applies to the

Planning Commission as set forth in subpart E2 of this section, include Findings for Approval A-C as set forth in the packet.”

Wayment seconded the motion, followed by a unanimous vote.

Mayor **Talbot** said the City will continue to get more pressure from the State and Legislature for moderate income housing, and this amendment will help.

Talbot welcomed the newly elected City Council Members who will begin serving in January. All were in attendance that day including **Scott Isaacson** (and his wife), **Shawn Beus**, and **Amy Shumway**.

NEW BUSINESS:

Surplus Property and Acquisition of Used Transport Engine

The Council considered a staff report prepared by Fire Chief **Guido Smith**. Smith discussed the opportunity to surplus the 1994 reserve engine, an apparatus used only during high call volumes. The funds from the sale of this equipment would be placed in the General Fund, which would go back to the City and not necessarily the Fire Department. The City was made aware of a 2001 transport engine for sale with the West Jordan Fire Department, which is a combination of a fire engine and ambulance. Considering the City recently sold an ambulance to Beaver County for \$30,500, purchase of West Jordan’s used transport engine would be at no additional cost to the City. The purchase would modernize the reserve fleet, help better manage the City fleet, keep overhead costs low, and maintain the City’s insurance premium base. Funds would need to be applied to place the transport engine in service.

Wayment asked what engine the City Council rides on during Festival Days. **Smith** said the City uses a 1979 engine that has a non-functioning pump for parades. **Pace** said transport engines are excellent, economical vehicles, as they keep employees together in one vehicle instead of splitting everyone up. Mayor Talbot said the City seldom has the newest equipment compared to other municipalities.

Motion:

Wayment moved to declare the 1994 reserve Fire Engine as surplus, approve the purchase of the used 2001 Transport Engine, and apply funds collected from the previous sale of an Ambulance toward the acquisition and in-service placement of the newly acquired Transport Engine.

Leeman seconded the motion, followed by a unanimous vote.

OLD BUSINESS:

Plat Amendment for East Brentwood Estates Subdivision

Mayor **Talbot** noted that the public hearing was held two weeks ago and a decision was tabled in order to allow discussions among the developer and residents. **Petersen** said a decision was also tabled to allow time for City Staff to research the yield plan. He said this parcel was not factored into the yield plan, schematic plan, or plat, so it was therefore not used to determine density in

the Brentwood Estates Subdivision. He noted the staff report used at the last City Council meeting is being used at today's meeting.

Russell Wilson, Land Acquisition and Development Manager at Symphony Homes, 111 S. Frontage Road, Centerville, Utah, noted that a thorough review of the parcel showed a couple of drainage easements on the plat map at the back of this lot. These drainage easements drain to Lot 9, established it as a developable lot, and can be used to develop the home. **Petersen** said the drainage goes down to an improved detention basin. Since the last City Council meeting, **Wilson** said his company has spoken with neighbors and assured them. He said **Reynolds** now understands that his disagreement is with Ivory Homes, not Symphony Homes or the land owner.

Leeman asked the applicant to identify a good cause for the City to amend the plat. **Wilson** said a good cause would be the yield plan, preliminary plat, and schematic plat had nothing to do with the plat in question. It was labeled as a remainder parcel, or a place holder earmarked for something to happen in the future. He said the parcel has buildable, developable area and access to utilities, although no utilities have been stubbed to the plat yet. **Leeman** asked if there was any benefit to the subdivision if Parcel B was removed from Brentwood Estates. **Wilson** said there would be a benefit to the city if it was removed in that a sidewalk would be installed that would create a continuous sidewalk for residential and pedestrian use. **Petersen** said Ivory Homes would be responsible for doing the sidewalk improvement, and that a utility trunk line coming to the parcel would benefit the city in general, and an asphalt overly would improve the life cycle. Mayor **Talbot** said no matter who installs the sidewalk, a continuous sidewalk would be a huge benefit and he doesn't want to wait ten years for a piece of sidewalk to be put in.

Leeman said this agenda item has caused him a lot of wrestling and heartburn, more than any single item in a while. Reading the Utah State Statute and court appeals has provided him with little guidance. He said he needs a good reason to amend the plat agreement, although he is not sure according to whom: the applicant, the neighbors, or the City.

Leeman said good causes according to neighbors could be that they are tired of paying money to maintain an open space, or maybe the vacant land is becoming a trash dump. However, that is not the circumstance here. During the last City Council meeting, neighbors shared the negative impact the parcel amendment would have on them, including that they designed and oriented their homes in certain ways with the understanding that the lot would remain as open space. **Leeman** said it bothers him that Ivory Homes misrepresented this area as open space. Good cause to the City is continuity of the sidewalk, increasing the tax revenue and safety. He said that he could see both good reason to amend and not to amend at the same time, and that the City Council is in a situation where they have both a good cause to amend or not to amend. Therefore, Council members must exercise their discretion, which he is struggling with. **Leeman** said he is leaning towards voting in favor of the plat amendment due to the benefits of the city, not leaving a gap on a major arterial road, and trail connection. However, he is not deaf to the negative impacts it could have on the neighbors, as had been expressed in the previous City Council meeting. He wants those concerns placed front and center.

Mayor **Talbot** asked if the Council can legally grant a plat amendment but with conditions, in order to address the people most negatively affected. Can the conditions include that the building cannot be a two-story dwelling, and that the area to be built on is restricted to the southeast. As for retaining walls, he wants to make sure to protect the residents below?

Pace noted that if this plat amendment is successful, this plat will be part of the Overlook Subdivision. The public will have the opportunity to talk about their concerns as the Overlook Subdivision proceeds through the process. There will still be plenty of time for public input, and an opportunity for the City to put restrictions in place. **Petersen** noted that the plat was part of the Overlook schematic that has already been done. When Overlook has its preliminary plat on the agenda, it will be as a public hearing. **Leeman** suggested leaning on the Planning Commission to attach conditions at the preliminary plat stage. Mayor **Talbot** said that new Council members will be in place in January, and those new Council members have not been through the previous City Council public hearings. He said he wants the new Council members to know of the concerns so far.

Councilman **Ritz** said he is really bothered by the misrepresentations Ivory made and the obvious impact to the homeowners below the parcel, since those homeowners made decisions based on those misrepresentations. He can see a benefit to the City to close the gap of improvements like sidewalk, curb, and gutter. He would like to table or deny the plat amendment for now and make the repercussions for property owners down the hill part of the ongoing discussion. He said this has been a difficult agenda item for him, and he is more on the side of denying the amendment at this time.

Steve Welling, 662 S. 200 W., Orem, Utah, 84058, who is the trustee of the trust that owns the parcel in question, addressed the Council. He said the original agreement with Ivory and the intention from the beginning of planning the Brentwood Subdivision was that the parcel would be developed in the future. He said because he was shocked to find the parcel marked as open space on Ivory's website, he engaged a lawyer to write a letter to Ivory asking them to remove that from their website as it was an improper description. **Welling** said it was removed from the website within three hours. He said that since the last City Council meeting, he had contacted the most vocal neighbor, **Reynolds**, who also happened to be a prior business associate of his. He said he understood Reynolds' concerns, and that he would be upset as well if he were in Reynolds' position. **Leeman** said **Reynolds** contacted him as well, and let him know that he was less than impressed with his meeting with Symphony Homes, developer of Overlook.

Welling said that good cause for passing the plat amendment would be that it would be an improvement for the city, and the neighbors' oppositions to the amendment are founded on representations that were not true and fair to the property owners. He said it is unfortunate that the neighbors got a wrong impression, and that he feels sorry for them. However, he said as a property owner in Farmington, he also has property rights and had intended to develop this parcel in the future.

Leeman said he does not wish to restrict the rights of an owner based on the misrepresentations of a third party. However, through his research, the records show that Ivory was the property

owner at the time the parcel was represented as open space. **Welling** said he was not aware Ivory was ever on the deed, and when he found that out in 2018, it was corrected within hours after involving Counsel.

Leeman said he believes the applicant needs a decision, and he usually avoids tabling decisions. However, he thinks it will help the Council members, especially for those who are still undecided, to find out if the City Council can attach conditions of approval to a plat amendment. He would like to get direction from the City Attorney about this before he votes, even though he knows he may be a lame duck. **Ritz** said he agreed and would like restrictions, but wants guidance from Counsel to see if that is proper. It could change the way he would vote.

Wayment said she is on the fence with her vote, as she can see reasons to amend it and reasons not to. She wants input from the City Attorney about stipulations, and would feel more comfortable after getting that input. She said she would rather table the decision instead of denying it. **Wilson** said the parcel is already labeled with constraints to build on the south side due to slopes. He said in his personal opinion, a two-story home could be built there and only the roof would be seen from the home below. **Talbot** said he also would like to have the City Attorney weigh in on this. While he is rarely in favor of tabling a decision, he thinks in this situation it would be worth the time to get the entire Council together for a vote after conferring with the City Attorney. **Petersen** said that there would be a new staff report done before the December 3 City Council meeting.

Motion:

Leeman moved to table this item to the Council's next meeting on December 3, 2019, to consult with the City Attorney on issue including if the Council can legally impose restrictions.

Wayment seconded the motion, which was unanimously approved.

Addressing the applicant and land owner, Mayor **Talbot** said it might help for them to consider building a single-story home and to come prepared with that consideration and any other promises they would like to make at the next meeting. He said the City Council would rather get this vote right.

SUMMARY ACTION:

Minute Motion Approving Summary Action List

Motion:

Wayment moved to approve the Summary Action list items number one and two, as noted in the staff report, including approval of minutes from October 29, 2019, and approval of \$6 million Pass Through Funds Agreement with UDOT for the transfer of SB 268 Funds, which involves right-of-way acquisition, design, engineering, and construction of the 950 North/Sunset project.

Leeman seconded the motion, which was unanimously approved.

The public hearing for Plat Amendment for the Corner Stone Subdivision agenda item was pulled and not heard at this City Council meeting.

GOVERNING BODY REPORTS:

City Manager Report

Pace presented the Building Activity Report for the month of October.

Pace also presented a memo from Finance Director **Greg Davis** regarding the City Purchasing Card Program. Currently the City has multiple credit and store cards, which leads to confusion when tracking down who made what purchases. With the new program, it will be very clear who made purchases. In his prior position with Sandy City, he was initially against such a program, but he came to appreciate the effectiveness of purchasing cards. Reviews can be done quickly on a monthly basis, and the process is more transparent and accountable. **Pace** recommended staying within the purchase order process as much as possible. The new program is a good option for Farmington, but will require policy changes before final Council approval.

Recorder **Holly Gadd** said the City may need to hold a special canvass meeting in the near future, and the County was trying to get all cities to hold their canvass meeting at the same time, possibly on November 19, 2019, at 2 p.m. She said the meeting could be held electronically and that she would email Council members the final vote numbers.

Mayor Talbot and City Council Reports

Mayor **Talbot** reminded the City Council about the Christmas party December 14 at his home, 6 p.m. He noted that Farming Elementary had a quality Veterans Day ceremony, and that he would make an effort to inform Council members of such events in the future. He also mentioned the grand opening of REI at 6 p.m. on November 14.

ADJOURNMENT

Motion:

Leeman made a motion to adjourn the meeting. **Wayment** seconded the motion, which was unanimously approved.

Holly Gadd, Recorder